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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,011	08/01/2006	Werner Steprath	127536	4346
25944	7590	12/27/2010	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			JOYCE, WILLIAM C	
			ART UNIT	PAPER NUMBER
			3656	
			NOTIFICATION DATE	DELIVERY MODE
			12/27/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/574,011	<b>Applicant(s)</b> STEPRATH ET AL.	
	<b>Examiner</b> William C. Joyce	<b>Art Unit</b> 3656	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office Action is in response to the amendment filed December 28, 2009 for the above identified patent application.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Reference 3-122507 (JP' 507) in view of either one of US Patent 2,104,101 (USP '101) or US Patent 6,368,222 (USP '222).

Referring to Figures 8 and 9, JP' 507 discloses a manually operated electric control device comprising a housing (2,3) on which a control lever (4) is mounted by means of a pivotable joint having two axes which can be pivoted in relation to each other, wherein the position of the control lever can be detected by a sensing technology for generating a control signal.

JP' 507 does not teach the claimed pivotable joint structure for supporting the lever on the housing. The prior art to either USP '101 or USP '222 teaches a pivotable joint as defined by the claims.

USP'101 teaches a pivotable joint having bearing tappets (10) extending from a pivoting member (8), the bearing tappets disposed in respective bearing

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sections (2), each bearing section including a cylinder section with a convexly curved external cylinder surface which bush is guided in a correspondingly designed concavely curved internal cylinder surface of a bearing bush (1) having the form of a cylinder bush so that a second pivot axis is formed, the cylinder section of each bearing section has a plane bearing surface adapted to be adjacent to end faces of the control lever, the cylinder bush includes two bush members connected to each other by a bridge, the bearing tappets are supported to slide in the control lever or in the respective cylinder section. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lever device of Olmsted et al. with the pivotable joint of Rosenbaum, motivation being to provide a simple joint having large pressure transmitting surfaces.

USP '222 teaches a pivotable joint having bearing tappets (20) extending from a pivoting member (22), the bearing tappets disposed in respective bearing sections (17), each bearing section including a cylinder section with a convexly curved external cylinder surface (25) which bush is guided in a correspondingly designed concavely curved internal cylinder surface of a bearing bush (16) having the form of a cylinder bush so that a second pivot axis is formed, the cylinder section of each bearing section has a plane bearing surface adapted to be adjacent to end faces of the control lever, the cylinder bush includes two bush members connected to each other by a bridge, the bearing tappets are supported to slide in the control lever or in the respective cylinder section.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lever device of JP' 507 with the pivotable joint of either USP '101 or USP '222, motivation being to provide a simple joint having accurate movement and large pressure transmitting surfaces.

With respect to claim 4, it was well known in the art to connect two mating components with a press fit. It would have been obvious to one of ordinary skill in the art at the time the invention was made to assembly the bearing tappets of Rosenbaum in a bore of a mating component with a press fit, motivation being to provide a simple and inexpensive connection means.

With respect to claim 9, JP' 507 does not disclose the components of the pivotable joint and the control lever being manufactured of non-magnetizable material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the lever device of JP' 507 from, for example, plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

3. Claims 7-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Reference 3-122507 (JP' 507) and one of US Patent 2,104,101 (USP '101) or US Patent 6,368,222 (USP '222), as applied to claim 1 above, in further view of USP 4,519,266 (USP '266).

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The prior art to USP '266 disclose a control lever arrangement having a magnet (6) disposed in a recess. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lever device of JP' 507 with a recess for a positioning magnet, as taught by USP '266, motivation being to provide means for determining a position of the lever.

With respect to claim 8, JP' 507 does not teach the lever having an approximately rectangular base on which the end faces associated with bearing surfaces are formed. However, forming the base portion of the lever disclosed by JP' 507 with an approximately rectangular shape is considered an engineering design choice, and does not appear to provide a significant improvement with respect to the prior art device. Alternatively, it would have been within the skill of one in the art to modify the lever portion supporting the tappets of JP' 507 with a rectangular shape, motivation being to facilitate in making and/or assembling the device.

### ***Response to Arguments***

4. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (571) 272-7107. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William C. Joyce/  
Primary Examiner, Art Unit 3656